

. JUL 1 2 2016

Erinn D. Latkin, Esq. 1 Park Row, Suite 5 Providence, Rhode Island 029093

RE: MUR 6843

Mark Takai for Congress

Dear Ms. Latkin:

On June 20, 2014, the Federal Election Commission notified your clients, Mark Takai for Congress and Edward Dion Kamihana as treasurer in his official capacity, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint and information supplied by you, the Commission, on July 7, 2016, voted to dismiss this matter. The General Counsel's Report, which more fully explains the Commission's decision, is enclosed for your information.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009).

If you have any questions, please contact Elena Paoli, the attorney assigned to this matter, at (202) 694-1650.

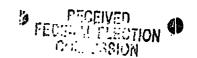
Sincerely,

Jeff Jordan

Assistant General Counsel Complaints Examination & Legal Administration

Enclosure

General Counsel's Report Certification



2016 MAY 26 PM 4: 21

BEFORE THE FEDERAL ELECTION COMMISSION

ENFORCEMENT PRIORITY SYSTEM **DISMISSAL REPORT**

CELA

MUR: 6843

Respondents: Mark Takai for Congress, and

Complaint Receipt Date: June 18, 2014

Edward Dion Kaimihana, as treasurer

(collectively the "Committee")

Response Date): July 14, 2014

EPS Rating:

Alleged Statutory/ Regulatory Violations: 5 U.S.C. § 7321 et seq. (Hatch Act) 5 U.S.C. § 552a (Privacy Act)

52 U.S.C. § 30120(a)

11 C.F.R. § 110.11(a)(1), (3)

11 C.F.R. § 100.26 11 C.F.R. § 100.28

The Complainant alleges that then-Hawaii U.S. House candidate Mark Takai improperly solicited him for a campaign contribution when Takai telephoned the Complainant, who was on military duty in South Korea. The Complainant alleges that Takai's phone call and a follow-up email requesting a contribution did not contain proper disclaimers. The Complainant also alleges that Takai's solicitation may violate the Hatch Act.

A "public communication." such as a telephone bank, that solicits contributions requires a disclaimer identifying who paid for it and whether it was authorized by a candidate. In addition, a political committee must include disclaimers when it sends more than 500 substantially similar emails. In this case, there is no information demonstrating that Respondents solicited more than 500 potential contributors by phone in a substantially similar way or sent more than 500 emails

The Commission does not have jurisdiction to enforce the Hatch Act, 5 U.S.C. § 7321 et seq., and, therefore, we make no recommendation as to this allegation. Additionally, on June 4, 2015, the U.S. Attorney's Office in Hawaii forwarded to the Commission a complaint it received from Complainant. See Compl. Supp. That correspondence alleges that Respondents violated the Privacy Act, 5 U.S.C. § 552a, by obtaining contributor names from an Army personnel database. See id. We also make no recommendation regarding this allegation as it is not within the Commission's jurisdiction.

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substantially similar to the ones the Complainant received. Specifically, the Complainant identifies only one phone call and two emails that allegedly lacked a disclaimer.

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include: (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating and the other circumstances presented, we recommend that the Commission dismiss the allegations consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. Heckler v. Chaney, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to all respondents and send the appropriate letters.

Daniel A. Petalas Acting General Counsel

Kathleen M. Guith Acting Associate General Counsel for Enforcement

5.26.16

Date

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Deputy Associate General Counsel for Enforcement

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cills. Jordan

Assistant General Counsel Complaints Examination & Legal Administration

Elena Paoli

Attorney

Enforcement